

W

**DOUTHIT & DARRAH**  
Of Counsel

**WILLIAM C. DARRAH 1698**  
Attorney At Law, ALC  
547 Halekauwila Street  
Suite 105  
Honolulu, Hawaii 96813  
Telephone: 531-7232

Attorney for Plaintiff

1ST CIRCUIT COURT  
STATE OF HAWAII  
FILED

1989 JUN 19 P 12:39

*M. Nakamoto*  
B. NAKAMOTO  
CLERK

IN THE FAMILY COURT OF THE FIRST CIRCUIT  
STATE OF HAWAII

LYLA BONNIE HEE,	)	FC-D No. 88-2586
	)	
Plaintiff,	)	PLAINTIFF'S SUMMARY OF
	)	ARGUMENT; EXHIBIT 1
v.	)	
	)	
CLAYTON HOWE WAH HEE,	)	
	)	
Defendant.	)	

PLAINTIFF'S SUMMARY OF ARGUMENT

Exhibit 1 attached hereto is a summary of the argument made in Plaintiff's Motion for Reconsideration submitted to the Family Court on May 18, 1989.

DATED: Honolulu, Hawaii, 6.19.89

*W.C. DARRAH*

WILLIAM C. DARRAH, ESQ.  
Attorney for Plaintiff

40

OVERVIEW

Nature of Marriage

The parties' marriage was short and unhappy, punctuated by many often-extended separations, and Husband's persistent infidelity.

Source of Assets

Every asset which existed as of the date of the trial herein was either the product of Wife's premarital property, or an asset which could not have been acquired but for Wife's economic contribution. This includes the Kaimuki Avenue residence.

Husband's Economic Contribution

In the course of the marriage, Husband did absolutely nothing of significance in the maintenance and/or preservation of Wife's separate property, and the fruits therefrom. In point of fact, Husband's average earnings in the course of the marriage were not even sufficient to pay his own living expenses. Nor can it be said that Husband made any significant non-economic contribution to the maintenance and/or preservation of Wife's separate property.

Husband's Non-Economic Contribution

Husband sacrificed absolutely nothing in the course of the marriage, and was instead completely free to pursue his own career and extracurricular ambitions, entirely without burden or responsibility economically or otherwise.

Absence of Donative Intent

To the extent that Wife allowed the use of her separate property to acquire jointly-titled assets which are the principal basis for the very substantial Court-ordered award to Husband, she did so without the requisite donative intent, and she should not be penalized on account thereof.

Court-Ordered Result

	<u>W</u>	<u>H</u>
Net Worth at DOM:	213,191. (94%)	13,460. (6%)
Net Worth Following Divorce:	427,490. (66%)	216,200. (34%)
Rate of Return:	2.01 times	16.06 times

Hee v. Hee  
EC-D No. 88-2586  
Plaintiff's Motion for Reconsideration  
Argued June 19, 1989

Page 2

COURT-ORDERED  
DIVISION OF REAL PROPERTY

	<u>W</u>	<u>H</u>
Kika Street	74,667.	(1)
Katmuki Avenue		185,000.
Molokai	<u>27,000.</u>	<u>                    </u>
Subtotal:	101,667.	185,000.
Husband owes Wife:	<u>41,667.</u>	<u>( 41,667. )</u>
Total:	143,334.	143,333.

111

Involves USP Deviation: Awards W Kika Street @ 2/3 equity;  
saves W \$18,667.

EXHIBIT 1

DIVISION OF PERSONAL PROPERTY

	<u>WIFE'S PROPOSAL</u>		<u>COURT'S DECISION</u>	
	<u>DOS BALANCE</u>		<u>DOT BALANCE</u>	
	<u>(DOM Credit)</u>		<u>(No DOM Credit)</u>	
	<u>W</u>	<u>H</u>	<u>W</u>	<u>H</u>
2.01 Oahu EE FCU	4,062.		1,264.	
	( 100. )			
2.03 Molokai FCU	267.		270.	
3.01 Amer. S & L	3,743.		3,743.	8,000.
	(8,977. )			
3.02 Amer. S & L	386.			267.
	(2,520. )			
3.03 Bank of Hawaii				
	(3,076. )			
3.04 Int'l Savings				
	(2,000. )			
3.06 Amer. S & L		9,806.		9,806.
3.07 First Federal	4,790.	125.		125.
3.10 First Federal	7,000.		7,125.	
3.11 First Federal	10,000.		10,000.	
7.0 Life Insurance	4,711.	7,262.	4,711.	7,262.
8.01 Hawaii ERS	(6,200. )			
8.02 Hawaii ERS		7,240.		27,471.
		(960. )		-0-
8.03 Penn Mutual	(6,233. )			
8.04 Amer. S & L IRA		19,609.		--
8.05 Amer. S & L IRA	21,400.		55,014.	
8.06 Security Benefit	10,350.		--	
8.07 Manulife	22,000.		--	
8.08 Chevrolet Truck		200.		200.
8.09 Toyota		200.		200.
8.10 Volvo	-0-		7,000.	
9.02 Animals		3,400.		3,400.
Subtotal	59,603.	46,882.	89,127.	56,606.
Wife owes Husband	(6,360. )	6,360.	( 16,260. )	16,260.
Total	53,243.	53,242.	72,867.	72,866.

SUMMARY OF  
COURT-ORDERED  
PROPERTY DIVISION

	<u>W</u>	<u>H</u>	
Real Estate "Charges"	101,667.	185,000.	(1)
Personal Property "Charges"	<u>89,127.</u>	<u>56,606.</u>	(2)
Subtotal	190,794.	241,606.	
H owes W	<u>25,406.</u>	<u>25,406.</u>	(3)
	216,200.	216,200.	

- (11) Involves USP Deviation  
(a) Awards W Kika Street @ 2/3 equity  
Saves W \$18,667.
- (12) Involves USP Deviations  
(a) Awards W inheritance growth without offset  
Saves W \$12,976.  
(b) Charges W with non-existent \$17,125. in savings  
Costs W \$8,563.  
(c) Fails to credit 8.03 Penn Mutual DOM balance of \$6,233.  
Costs W \$3,116.
- (13) Net USP Advantage: \$19,964. to W

NECESSARY ADJUSTMENTS  
TO PROPERTY DIVISION

111 EQUALIZE RATE OF RETURN

Net Worth at DOM	213,191. (94%)	13,460. (6%)
Net Worth Following Divorce	<u>605,069. (94%)</u>	<u>38,621. (6%)</u>
Rate of Return	2.84	2.87

121 MINIMUM NECESSARY ADJUSTMENTS  
WITHIN FRAMEWORK OF DECREE

H owes W per Decision	25,406.	Decision orders \$28,378.
Adjustment for Real Estate		
All Kika Equity to W Without Offset	+ 37,333.	
Credit W Kika Preference @ \$90,662.	+ 26,639.	See Ex 1 Post-Trial Memo
Credit W Kika Preference @ \$59,388.	+ 11,002.	See Page 5 Handwritten Decision
Adjustment for Personal Property		
Reverse First Fed. Charge	+ 8,563.	
Credit Penn Mutual	+ 3,116.	

121 IN ANY EVENT. . .

In any event, Husband should be obligated to pay Wife what he owes Wife for property division before he is allowed to acquire real estate awarded to Wife. Husband should not be permitted some "special advantage" which allows him to end up with both investment real properties before he fulfills his obligation to pay Wife for the receipt of the most valuable investment property. Also, payment for property division now serves the public purpose of minimizing future economic connections between the parties.

CHILD SUPPORT

The Court's child support order may be summarized as follows.

	<u>H</u>	<u>W</u>
Current Earned Income	2,030.	2,761.
Earning Ability	3,500.	2,761.
Income from Assets	432.	869. (1)
Available for Child Support	3,932.	3,530.
Found by Court	2,030.	3,530.
Deficit	( 1,902. )	- 0 -

(11)

The Decision awards Wife assets worth \$427,490., and imputes income thereon at \$869. per month, a ratio of .0020. The same ratio should apply to H:  $.0020 \times \$216,200 = 432.$